

# SENATE MOTION

**MR. PRESIDENT:**

**I move** that Engrossed House Bill 1317 be amended to read as follows:

1       Page 1, between the enacting clause and line 1, begin a new  
2       paragraph and insert:  
3       "SECTION 1. IC 6-2.5-7-1, AS AMENDED BY P.L.222-1999,  
4       SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5       JANUARY 1, 2003]: Sec. 1. For purposes of this chapter:  
6       "Kerosene" has the same meaning as the definition contained in  
7       IC 16-44-2-2.  
8       "Gasoline" has the same meaning as the definition contained in  
9       IC 6-6-1.1-103.  
10       "Special fuel" has the same meaning as the definition contained in  
11       IC 6-6-2.5-22.  
12       "Unit" means the unit of measure, such as a gallon or a liter, by  
13       which gasoline or special fuel is sold.  
14       "Metered pump" means a stationary pump which is capable of  
15       metering the amount of gasoline or special fuel dispensed from it and  
16       which is capable of simultaneously calculating and displaying the price  
17       of the gasoline or special fuel dispensed.  
18       "Indiana gasoline tax" means the tax imposed under IC 6-6-1.1.  
19       "Indiana special fuel tax" means the tax imposed under IC 6-6-2.5.  
20       "Federal gasoline tax" means the excise tax imposed under Section  
21       4081 of the Internal Revenue Code.  
22       "Federal special fuel tax" means the excise tax imposed under  
23       Section 4041 of the Internal Revenue Code.  
24       "Price per unit before the addition of state and federal taxes" means  
25       an amount which equals the remainder of:  
26       (i) the total price per unit; minus  
27       (ii) the state gross retail, Indiana gasoline or special fuel, and  
28       federal gasoline or special fuel taxes which are part of the total  
29       price per unit.  
30       "Total price per unit" means the price per unit at which gasoline or  
31       special fuel is actually sold, including the state gross retail, Indiana

gasoline or special fuel, and federal gasoline or special fuel taxes which are part of the sales price.

"Distributor" means a person who is the first purchaser of gasoline from a refiner, a terminal operator, or supplier, regardless of the location of the purchase.

"Prepayment rate" means a rate per gallon of gasoline, rounded to the nearest one-tenth of one cent (\$0.001), determined by the department by determining the product of:

- (1) the statewide average retail price per gallon of gasoline, excluding the Indiana and federal gasoline taxes and the Indiana gross retail tax; multiplied by
- (2) the state gross retail tax rate; multiplied by
- (3) ninety percent (90%).

"Purchase or shipment" means a sale or delivery of gasoline, but does not include:

- (1) an exchange transaction between refiners, terminal operators, or a refiner and terminal operator; or
- (2) a delivery by pipeline, ship, or barge to a refiner or terminal operator.

"Qualified distributor" means a distributor who:

- (1) is a licensed distributor under IC 6-6-1.1; and
- (2) holds an unrevoked permit issued under section 7 of this chapter.

"Refiner" means a person who manufactures or produces gasoline by any process involving substantially more than the blending of gasoline.

"Terminal operator" means a person that:

- (1) stores gasoline in tanks and equipment used in receiving and storing gasoline from interstate or intrastate pipelines pending wholesale bulk reshipment; or
- (2) stores gasoline at a boat terminal transfer that is a dock or tank, or equipment contiguous to a dock or tank, including equipment used in the unloading of gasoline from a ship or barge and used in transferring the gasoline to a tank pending wholesale bulk reshipment.

SECTION 2. IC 6-2.5-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. (a) Each retail merchant who dispenses gasoline or special fuel from a metered pump shall, in the manner prescribed in IC 6-2.5-6, report to the department the following information:

- (1) The total number of gallons of gasoline sold from a metered pump during the period covered by the report.
- (2) The total amount of money received from the sale of gasoline described in subdivision (1) during the period covered by the report.
- (3) That portion of the amount described in subdivision (2) which represents state and federal taxes imposed under IC 6-2.5,

1 IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.

2 (4) The total number of gallons of special fuel sold from a  
3 metered pump during the period covered by the report.

4 (5) The total amount of money received from the sale of special  
5 fuel during the period covered by the report.

6 (6) That portion of the amount described in subdivision (5) that  
7 represents state and federal taxes imposed under IC 6-2.5,  
8 IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

9 (b) Concurrently with filing the report, the retail merchant shall  
10 remit the state gross retail tax in an amount which equals one  
11 twenty-first (1/21) of the gross receipts, including state gross retail  
12 taxes but excluding Indiana and federal gasoline and special fuel taxes,  
13 received by the retail merchant from the sale of the gasoline and special  
14 fuel that is covered by the report and on which the retail merchant was  
15 required to collect state gross retail tax. The retail merchant shall remit  
16 that amount regardless of the amount of state gross retail tax which he  
17 has actually collected under this chapter. However, the retail merchant  
18 is entitled to deduct and retain the amounts prescribed in ~~subsection~~  
19 ~~(c)~~, IC 6-2.5-6-10 and IC 6-2.5-6-11.

20 ~~(c) A retail merchant is entitled to deduct from the amount of state~~  
21 ~~gross retail tax required to be remitted under subsection (b) an amount~~  
22 ~~equal to:~~

23 ~~(1) the sum of the prepayment amounts made during the period~~  
24 ~~covered by the retail merchant's report; minus~~

25 ~~(2) the sum of prepayment amounts collected by the retail~~  
26 ~~merchant; in the merchant's capacity as a qualified distributor;~~  
27 ~~during the period covered by the retail merchant's report.~~

28 ~~For purposes of this section, a prepayment of the gross retail tax is~~  
29 ~~presumed to occur on the date on which it is invoiced."~~

30 Page 3, after line 32, begin a new paragraph and insert:

31 "SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE  
32 JANUARY 1, 2003]: IC 6-2.5-7-6; IC 6-2.5-7-7; IC 6-2.5-7-8;  
33 IC 6-2.5-7-9; IC 6-2.5-7-10; IC 6-2.5-7-11; IC 6-2.5-7-12;  
34 IC 6-2.5-7-13; IC 6-2.5-7-14; IC 6-2.5-7-15."

35 Renumber all SECTIONS consecutively.

(Reference is to EHB 1317 as printed February 22, 2002.)

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Senator SIMPSON